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**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE LUIS MACIAS-DE LEON,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 02-71555

Agency No. A72-915-196

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted October 11, 2005^{**}

Before: HALL, T.G. NELSON, and TALLMAN, Circuit Judges.

Jose Luis Macias-de Leon, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") decision affirming an immigration judge's order denying his application for cancellation of removal on

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

the ground that his United States citizen children would not suffer exceptional and extremely unusual hardship if he were removed to Mexico. We have jurisdiction pursuant to 8 U.S.C. § 1252. We review de novo constitutional claims arising out of removal proceedings, *Jimenez-Angeles v. Ashcroft*, 291 F.3d 594, 599 (9th Cir. 2002), and we deny the petition for review.

Macias-de Leon's contention that the BIA denied him due process by applying a new standard for "exceptional and extremely unusual hardship" does not raise a colorable due process challenge. *See Torres-Aguilar v. INS*, 246 F.3d 1267, 1271 (9th Cir. 2001) ("To be colorable ... the claim must have some possible validity").

Macias-de Leon's contention that the term "exceptional and extremely unusual hardship" is ambiguous, and the BIA's decision is contrary to the plain language and meaning of the statute is unpersuasive. *See Ramirez-Perez v. Ashcroft*, 336 F.3d 1001, 1006-07 (9th Cir. 2003) (the statutory language gives the BIA broad authority to define "exceptional and extremely unusual hardship").

The voluntary departure period was stayed, and that stay will expire upon issuance of the mandate. *See Desta v. Ashcroft*, 365 F.3d 741 (9th Cir. 2004).

PETITION FOR REVIEW DENIED.